IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 460 of 1988

in

SPECIAL CIVIL APPLICATION No 3888 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANAIYALAL P PANDYA

Versus

STATE OF GUJARAT

Appearance:

MR DC RAVAL for MR MR ANAND for Appellant
MR SN SHELAT, ld.Advocate General with MS HARSHA DEVANI, ld.AGP for Respondents Nos. 1 & 2
MS MAHROOK KERRAVALA for respondent no.3.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE N.G.NANDI

Date of Order: 26/06/2001

ORAL JUDGMENT

(Per : MR.JUSTICE M.R.CALLA)

It was pointed out by learned Advocate General that respondent no.3 - Bipin J. Bhatt was appointed on the basis of the subsequent selection and the order dated 18th Dec.1989 (22nd Dec.1989) was passed on the basis of the subsequent selection and not on the basis of the selection which was impugned in the Spl.Civil Application No.3888 of 1987. He has already produced copy of the order on 19th June 2001. Mr. DC Raval has not been able to controvert this fact. In this view of the matter, we find that the grievance which has been raised by the petitioner-appellant herein is wholly illusory and unfounded. Therefore, we do not find it necessary to examine the judgment of the learned Single Judge on merits. Without expressing any opinion on the merits of the questions as have been decided by the learned Single Judge in the impugned judgment dated 24th Nov.1988, we find that this Letters Patent Appeal is not required to be decided on merits as the Spl. Civil Application itself was filed on misconceived grounds which were factually incorrect and unfortunately such factual position was not brought to the notice of the learned Single Judge. In any case, this Letters Patent Appeal does not survive. Accordingly the same is hereby dismissed. No order as to costs.

26th June 2001 (M.R. Calla, J.)

(N.G. Nandi, J.)

Sreeram.